

<p>Page 178</p> <p>1 they did. This is what ---  2 you're trying to decertify her.  3 You're trying to decertify  4 her ---  5 ATTORNEY HEATH:  6 I'm asking her ---.  7 ATTORNEY NICHOLS:  8 --- on the basis of this.  9 And then you come in here and  10 act, well, what are you talking  11 about?  12 ATTORNEY HEATH:  13 This is a federal  14 lawsuit.  15 ATTORNEY NICHOLS:  16 What are you talking  17 about?  18 ATTORNEY HEATH:  19 This is perfectly legal.  20 ATTORNEY NICHOLS:  21 You are trying to  22 decertify my client.  23 ATTORNEY HEATH:  24 Let the record reflect  25 that at this point, I'm warning</p>	<p>Page 180</p> <p>1 stated of Arbitrator Annis speaks  2 for itself. That is the issue  3 that she's put to us. My client  4 has answered. And I insist ---  5 or Counsel insists that I will  6 not allow her character to be  7 impugned this way when the  8 record clearly speaks on that  9 particular issue.  10 The arbitrator has  11 already ruled that she has done  12 nothing wrong. As a matter of  13 fact, it's that very basis that  14 we are asking for back wages,  15 unpaid wages, that I'm going to  16 be putting in the record.  17 ATTORNEY HEATH:  18 Again, I don't really  19 want to waste ---  20 ATTORNEY NICHOLS:  21 That very thing.  22 ATTORNEY HEATH:  23 --- any more time.  24 ATTORNEY NICHOLS:  25 Okay.</p>
<p>Page 179</p> <p>1 Mr. Nichols that this type of  2 behavior, I will go before the  3 Judge.  4 ATTORNEY NICHOLS:  5 We're going before the  6 Judge because I'm not going to  7 allow it.  8 ATTORNEY HEATH:  9 He is refusing to allow  10 his client to answer questions.  11 And I will move for dismissal of  12 the complaint because he is  13 refusing ---  14 ATTORNEY NICHOLS:  15 All right. You can  16 move ---.  17 ATTORNEY HEATH:  18 --- to cooperate with the  19 court ordered deposition  20 relative to discovery.  21 ATTORNEY NICHOLS:  22 All I can say on that  23 particular issue --- on that  24 particular issue, let me say  25 this. The record that I've</p>	<p>Page 18</p> <p>1 ATTORNEY HEATH:  2 To certify it for the  3 Judge, I'm filing the motion  4 tomorrow.  5 ATTORNEY NICHOLS:  6 All right.  7 ATTORNEY HEATH:  8 Actually, I'm not filing  9 it until Thursday because I  10 won't be in tomorrow.  11 ATTORNEY NICHOLS:  12 Fine.  13 EXAMINATION  14 BY ATTORNEY HEATH:  15 QNext is Exhibit 16. I'm going  16 to ask you to take a look at this.  17 (de Leon Exhibit Number  18 16 marked for  19 identification.)  20 WITNESS REVIEWS DOCUMENT  21 BY ATTORNEY HEATH:  22 QHave you ever seen the student  23 records policy before?  24 ANo, I never have.  25 QAnd are you aware that this was</p>

1 a student records policy that was  
 2 passed by the School Board for the  
 3 Crawford Central School District?  
 4 A Maybe to them, but not to me.  
 5 However, I never disclosed any student  
 6 records, only when I felt it was  
 7 extremely necessary to defend any job  
 8 and my rights.

9 Q And in that regard, we already  
 10 discussed the phone call you made to  
 11 Robin Stockton during class. And you  
 12 specifically told me what you  
 13 said ---

14 A I don't want to go through that.

15 Q --- in that phone call, correct?

16 A Oh, yeah. Poor thing. Yeah.

17 Q Who's the poor thing?

18 A Johnny, that poor little kid.

19 My gosh. I told his mother he was  
 20 sleeping when everybody could see that  
 21 he was sleeping.

22 Q And you also said that you

23 said ---

24 A That's the only thing.

25 Q --- that he didn't get a grade

1 for the prior period.

2 A And?

3 Q And if I may call your attention

4 to the fact that your testimony ---

5 A He didn't have that.

6 Q --- also contradicts your

7 testimony under oath at the last

8 arbitration proceeding.

9 A He didn't have a grade ---. No,

10 because there is a memo. You can read

11 the memo.

12 Q You can read your arbitration

13 testimony, too.

14 A Well, you can read the memo

15 because I never said that --- I never

16 gave any information confidential.

17 They said, and you can read

18 information ---

19 ATTORNEY NICHOLS:

20 You've answered her.

21 You've answered.

22 A --- in the arbitration, because

23 I never gave ---.

24 ATTORNEY NICHOLS:

25 You've answered the

1 question.

2 A Okay. Move on.

3 BY ATTORNEY HEATH:

4 Q Relative to the --- you were put

5 on two action plans; is that correct?

6 A Why don't we call them

7 harassment plan to get rid of me? A

8 plan to get rid of me.

9 Q They were called action plans;

10 is that correct?

11 A I was attaining a Master's at

12 Mercyhurst College taking management

13 classes. They were helping me.

14 Q And let me ask you this.

15 ATTORNEY HEATH:

16 This'll be Exhibit --- 18

17 or 17?

18 (de Leon Exhibit Number

19 17 marked for

20 identification.)

21 BY ATTORNEY HEATH:

22 Q And there is a date on the

23 bottom here that's 6/8/01. And is that

24 D-E-L, is that your signature?

25 A Yes.

1 Q So this is something that you

2 did receive; correct?

3 A And I did comply with every

4 sentence of the request.

5 Q And I asked you, did you receive

6 this? Yes or no?

7 A Yes, I did.

8 Q And in fact, this is Mr.

9 Roznowski's signature. So he was your

10 union representative that was present

11 when this was discussed with you;

12 correct?

13 A Yes, he was.

14 Q And who else was present when

15 this was discussed with you?

16 A I believe it was Mr. Desner, of

17 course, because he gave it to me, and

18 Mrs. Deardoff, and I believe maybe Mr.

19 Higgins. I'm not sure. But I know

20 Mrs. Deardoff, Roznowski, Desner,

21 myself. I don't know if Mr. Higgins

22 was present or not.

23 Q And as I said, this is something

24 that was discussed with you in detail;

25 is that accurate?

<p>Page 186</p> <p>1 A Yes. And in detail I followed  2 every single directive, which I proved  3 with documentation. And the  4 arbitrators speak for themselves.  5 Q And there are areas of concern  6 that are listed on the first two pages;  7 correct?  8 A For the last 15 years, I've had  9 areas of concern, actually.  10 Q That the administration listed  11 on the first two pages; is that  12 correct? One through nine?  13 A Correct. Yeah.  14 Q And then the third page deals  15 with back to school, discipline and  16 action plan. And it discusses things  17 such as room arrangement, rules and  18 routines, and then goes on ---.  19 A But I didn't have a classroom.  20 How could they do that?  21 Q And then it goes on to give you  22 management tips; correct?  23 A Let me ask you something.  24 Q I'm asking you, is that what  25 this action plan ---?</p>	<p>Page 188</p> <p>1 A --- what I did. The classes I  2 was taking at Mercyhurst, classroom  3 management, how to deal with learning  4 disability students. I was always  5 educating myself professionally.  6 That's what had helped me. All the  7 books I read, not this harassment plan,  8 because I already knew. What are you  9 talking about, this action plan? It  10 was a harassment plan to get rid of me.  11 Q So none of these management tips  12 or rules and routines or survival  13 tips ---?  14 A I read the whole book. I don't  15 need little piece of paper saying about  16 it.  17 Q None of them helped you?  18 A I had a whole entire book. I  19 showed them my book that I was taking  20 at Mercyhurst. I was attending  21 Mercyhurst. I was enrolled in  22 Mercyhurst, and they had it written  23 that I didn't show any professionalism.  24 Just to show you the extent of the  25 harassment, they said, she does not</p>
<p>Page 187</p> <p>1 ATTORNEY NICHOLS:  2 What are you asking her,  3 Counsel?  4 A The room arrangement, I didn't  5 even have a classroom, remember? I  6 came back and they took my classroom  7 away.  8 BY ATTORNEY HEATH:  9 Q Back to school discipline  10 management action plan, it discusses  11 room arrangement, rules and routines,  12 management tips, ---  13 A I think they brought that up.  14 Q --- survival tips on classroom  15 management, and more tips and tricks of  16 the trade?  17 A He crossed that out, the room  18 arrangement.  19 Q Did you find any of this  20 information helpful?  21 A Of course not. That was a  22 harassment plan. What was very helpful  23 was ---  24 Q None of this information was  25 helpful?</p>	<p>Page 188</p> <p>1 show any professionalism.  2 Q And did you speak to your  3 superiors the way you're speaking to me  4 now?  5 A Of course I did.  6 Q Of course you did?  7 A Of course I told them what I was  8 doing.  9 Q So you're raising your voice,  10 you are not listening to the questions  11 that I'm asking you, you're not  12 responding in a professional  13 manner ---.  14 A Let me tell you what I did. I'm  15 telling you what I did.  16 ATTORNEY NICHOLS:  17 Counsel, please don't  18 provoke the client. She's  19 trying to cooperate.  20 ATTORNEY HEATH:  21 I think she's already  22 provoked.  23 ATTORNEY NICHOLS:  24 I mean, we're trying to  25 be reasonable.</p>

1 ATTORNEY HEATH:

2 I don't believe that.

3 ATTORNEY NICHOLS:

4 You asked that she be

5 deposed. We've been trying to

6 cooperate. But please don't

7 provoke her.

8 A And I think you have my

9 transcript. I was taking professional

10 classes.

11 ATTORNEY NICHOLS:

12 And we do demand some

13 level of respect from you; okay?

14 A You don't have to put ---

15 ATTORNEY HEATH:

16 And I have not stood up

17 and raised my voice and pounded

18 on the table.

19 A You did. You were screaming,

20 too.

21 ATTORNEY NICHOLS:

22 Well, I'm emphatic, and I

23 don't take that back because we

24 had reason to; okay?

25 A I was taking professional

1 A Yes, I did.

2 Q Did you review it?

3 A Of course I did.

4 Q Did you find this in any way

5 helpful?

6 A Of course not.

7 Q And that would be why?

8 A I did comply with every

9 directive. I did everything they did.

10 But what had helped me, again, I was

11 enrolled in a Master program. And I

12 think that you have a copy of my

13 transcript. I was attending classes

14 without them telling me --- you advised

15 already that I have to repeat that,

16 that I was not showing professional

17 improvement. I was attending

18 Mercyhurst College.

19 Q So you already knew everything

20 and they couldn't tell you anything?

21 A Of course not. There is always

22 room for improvement. They didn't have

23 to tell me. I did it on my own. I

24 went and signed up as soon as I was

25 feeling better mentally. Because the

1 courses. That's what I was telling  
2 them.

3 BY ATTORNEY HEATH:

4 Q So none of that helped you?

5 A Of course not.

6 ATTORNEY HEATH:

7 Let's mark another

8 exhibit.

9 A I told them that none of it

10 helped.

11 ATTORNEY NICHOLS:

12 Just answer the question

13 you're asked.

14 ATTORNEY HEATH:

15 This will be 18 now, or

16 19?

17 A That was 17.

18 (de Leon Exhibit Number

19 18 marked for

20 identification.)

21 BY ATTORNEY HEATH:

22 Q This exhibit is an action plan

23 for the 2002 to 2003 school year, and

24 this document is three pages. Is this

25 something that you received?

1 vocation was pounded in my head by my

2 mother. She was a teacher. And you

3 know how many credits I have in all

4 courses in education, when there are

5 teachers in middle high school, that in

6 the last ten years, they never took a

7 class, but they were never reprimanded

8 or put in an action plan until they

9 were ready to retire, of course.

10 ATTORNEY HEATH:

11 The next exhibit, I

12 believe, is 19.

13 (de Leon Exhibit Number

14 19 marked for

15 identification.)

16 BY ATTORNEY HEATH:

17 Q This is a revised action plan

18 for the ---

19 A It was a March ---

20 Q Excuse me. I'm not finished

21 with my question. This is a revised

22 action plan for the 2002 to 2003 school

23 year, and it says revised February

24 2003.

25 A It was March 19. I have it. ]

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<p>1 have the real copy of this one. They  2 changed the date. And they fired me on  3 April 11th. They gave me a revised  4 after my suspension. After I came back  5 off the ten days suspension because of  6 immorality, they gave me a revised  7 version on March 19. That's the date I  8 have written in here. This is another  9 date. And they fired me on April 11th.  10 QIs there anything other than the  11 date that you believe is different in  12 the content of the revised action plan?  13 AIt was the same thing over and  14 over and over.  15 QYou did receive this?  16 AOf course I do. I told you I  17 have the actual --- they have March  18 19th. My lawyer has it. I gave it to  19 him. March 19th.  20 QSo what you're saying is that  21 you did receive this action plan, but  22 not ---  23 AAfter I came back from being  24 suspended.  25 Q--- until March 19th?</p>	<p>1 phone call. It went on each  2 disciplining student, which they were  3 also --- I was accused of  4 insubordination if I was not to turn  5 them in by the end of the day, which I  6 did. I handed them my discipline file,  7 my discipline folders and this.  8 BY ATTORNEY HEATH:  9 QWell, this first exhibit, which  10 is Exhibit 20, it says discipline log,  11 and then it says two, and then there's  12 a crossed out '02 and then '03. Then  13 there's handwriting up top from Mr.  14 Higgins. It says received 2/27. And  15 was this the discipline log that you  16 turned in to Mr. Higgins on 2/27?  17 AIt did.  18 QAnd then Exhibit 21 indicates  19 it's received 2/28, and it's been  20 signed John Higgins. And is this a  21 second log?  22 AI did. I gave him my revised  23 version.  24 QWhat was the purpose of you  25 revising the first discipline log? If</p>
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<p>1 A March 19th. And they fired me  2 April 11th.  3 QAnd again, did you review this  4 action plan?  5 AOf course I did.  6 QAnd is it your testimony that  7 this, too, did not serve in any way to  8 help you or give you any enlightenment?  9 AWell, it didn't help me in two  10 weeks. After that, they fired me.  11 They gave me two weeks to try it.  12 QWere you required, as part of  13 your action plan, to keep a daily log  14 of all disciplinary actions?  15 AI did, and you have it, too.  16 QI'm going to show you what we'll  17 mark as Exhibits 20 and 21.  18 (de Leon Exhibits 20 and  19 21 marked for  20 identification.)  21 AIn addition to having this  22 discipline log, I went farther than  23 they did because I did that for 15  24 years. I had a discipline folder for  25 each student, each detention, each</p>	<p>1 you kept such meticulous records, why  2 did you have to revise it?  3 ABecause I have to make sure that  4 every entry was in there, to make sure.  5 Because sometimes, if I didn't put it  6 --- I put it in a main folder, and then  7 I have to file in each folder. And if  8 there was something missing, I have to  9 make sure that it was totally accurate.  10 That's what I told him. And there was  11 one class that I had to review, and I  12 said, I just need one class to review  13 it to make sure I put all the entries  14 there. And I gave it back to him.  15 QDid Mr. Higgins ever discuss  16 with you that the information that you  17 provided to him in the folders that you  18 kept on your students relative to their  19 discipline also didn't match up in some  20 cases with the information on your  21 discipline log?  22 ABut nothing did.  23 QPardon me?  24 AHe was so meticulous to see how  25 many mistakes I had. I'm very, very</p>



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1 sorry. What didn't match? I asked  
 2 him, what is wrong? I have him  
 3 detention. There is the slip. What,  
 4 did I make it up? Is he trying to say  
 5 that I made this up? I gave him my  
 6 files. I did. And if there was  
 7 something I didn't know put in this  
 8 that I overlooked, I'm very sorry.  
 9 That is what I told him. I needed more  
 10 time to review.

11 But I did not make up my  
 12 discipline problems. They were there.

13 And many pink slips, he signed them.

14 They are there. If I made a mistake

15 --- that's what I told him. I need to

16 review and see if there is something

17 missing.

18 Q So what would be the accurate

19 record, your folders or the second

20 discipline log?

21 A I would imagine the second

22 discipline log to be a little bit more

23 accurate. But my folders, as well.

24 And I gave them to him so he can

25 compare.

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1 contained any good or helpful  
 2 information, it's your testimony you  
 3 complied with all of the directives, is  
 4 that correct?

5 A I did comply with all the

6 directives, and I was taking classes at

7 Mercyhurst. That's what helped me, my

8 classes at Mercyhurst, classroom

9 management, dealing with students with

10 disabilities, learning disabilities.

11 See all the classes that I took.

12 Q And when was it your finished

13 your classes at Mercyhurst?

14 A I did it a little while ago, but

15 I'm going to go through it again

16 because I know, poor thing, you have so

17 much information. But I know it's your

18 job. My son died on November --- and I

19 was already taking Mercyhurst because

20 when I came back from school, I was

21 attending Mercyhurst one week --- one

22 night a week, when I came back to work.

23 Then after they went ahead and put me

24 in the action plan and all this stress

25 again, I had to stop.

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1 Q And would I be fair to say that

2 you utilized the information in your

3 folders to create the discipline log?

4 Is that where you got the information

5 from?

6 A Well, of course.

7 Q I mean, was there any other

8 record you kept?

9 A I kept this in my computer, and

10 I had to bring my folders consistently

11 to my house to keep updating because I

12 couldn't do it at school. I have

13 enough schoolwork as it is typing all

14 my lesson plans, all the reading that

15 he wanted me to do, and observing all

16 the classes. I stayed until four

17 o'clock trying to keep up with all the

18 homework after suspension. There was

19 just so much I could do. So I did

20 everything I could, but I complied with

21 every directive. Although with all my

22 depression, I still was able to come to

23 work.

24 Q So despite the fact that you

25 didn't believe that the action plans

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1 Although I took many classes,

2 there were only nine classes I needed

3 to take. Only nine out of 36. So

4 after they fired me, in September, I

5 enrolled for the last nine classes I

6 had to take. Again, I had to stop

7 because my son died. For three months,

8 I couldn't do anything. I was mentally

9 dead.

10 However, the last month, which

11 they gave me a due date, which is

12 February 2004, that was the deadline

13 for me to turn in my thesis and all the

14 rest of the work with the other two

15 classes. So actually, they gave me my

16 degree in the summer of 2004, but I had

17 to turn in my material in February

18 2004. But they gave me my diploma in

19 2004 when I went to the ceremony

20 That's when I graduated.

21 Q And what was your degree in?

22 A Bilinguals, Bicultural and

23 Special Education. A Master's.

24 Q The next exhibit I'd like to

25 show you would be 22.

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1 (de Leon Exhibit Number  
2 22 marked for  
3 identification.)

4 BY ATTORNEY HEATH:

5 Q And this is a March 20th, 2003

6 memorandum from you to Mr. Flipping,

7 re, and it reads, quote, relentless

8 negative criticism and intensified

9 harassment, end quote. With regard to

10 this document, you had mentioned

11 before, when I had asked you about

12 copying Mr. Flipping on information

13 that had students' identifications in

14 there, and you had mentioned that there

15 was one particular memo that you could

16 think of offhand, was that the memo you

17 were talking about?

18 A No, no. There was Thomas

19 something and Megan something. Aniece

20 was something else. And Pam, she had

21 said something in front of the whole

22 class, but I can't remember. So there

23 are two.

24 Q So there are at least two.

25 Would you agree with me?

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1 A Probably at least two, maybe  
2 more. I'm not sure because I sent him,  
3 like, regular information.

4 Q Who is Jeff Lewis?

5 A That's the director of PSEA.

6 Q And I think that there is a

7 second page, and quite frankly, it

8 could be my fault for not having it

9 copied.

10 A He is something in PSEA.

11 Q But let's mark this as Exhibit

12 23.

13 (de Leon Exhibit Number

14 23 marked for

15 identification.)

16 BY ATTORNEY HEATH:

17 Q And as I said, it looks like

18 there should be a second page to that,

19 and I'll have to double check my

20 original files to see.

21 A Probably.

22 Q But this is a memo that you had

23 written to him, and you believe he is

24 the PSEA representative?

25 A He is. I think he's the

1 director, the general director.

2 Q Is this the same student that we

3 were talking about that you called

4 Robin Stockton about?

5 A Yes. Phil Sived. This is the

6 memo that I had sent.

7 Q And do you know if that was sent

8 to Mr. Flipping?

9 A I'm not sure, but I could have

10 because I told him about my suspension

11 and I told him I was going to grieve

12 it. But I'm not sure if I did. I sent

13 him all the information that was

14 pertaining to my complaint, everything

15 that I happened during '02.

16 ATTORNEY HEATH:

17 I'd like to mark this as

18 Exhibit 24.

19 (de Leon Exhibit Number

20 24 marked for

21 identification.)

22 BY ATTORNEY HEATH:

23 Q This is an April 30th, 2003

24 letter that was sent certified mail.

25 And was this something that you

1 received? And I'll direct your

2 attention to the back page, where it

3 looks like you signed off on the

4 receipt.

5 A Yes, I did. And I sent a copy

6 twice to Mr. Flipping along with my

7 portfolio, which included this, of

8 course.

9 Q And what occurred after you

10 received this letter? What did you do?

11 A I sent right away a copy to Mr.

12 Flipping, first thing. I even called

13 him to give him --- right away, as soon

14 as I was fired. And I sent him a copy

15 right away. And I sent copies to Mr.

16 Jones and I sent copies to Mr. Lewis

17 and I sent copies to my lawyer. I put

18 a file together. I sent it to all the

19 legal counsel I could, especially Mr.

20 Flipping, the first one. And I have

21 the receipts from the post office.

22 Q Now, in this letter on page

23 three, it indicates at the bottom that

24 hearing has been scheduled for

25 Wednesday, May 14th, 2003. And then it

1 gives you the rights that you have and  
2 the opportunity at this hearing to be  
3 heard by the Board of School Directors.

4 Did you take this opportunity?

5 A.Of course not. They fired me in  
6 the first place.

7 Q.And so did you choose then to go  
8 to arbitration?

9 A.Of course.

10 Q.And as part of that arbitration

11 I --- and I understand that this is a

12 notice of hearing and statement of

13 charges, and the statement of charges

14 are listed. But also in April of 2003,

15 did you receive an unsatisfactory

16 evaluation?

17 A.Prior to everybody else on

18 September --- what is that, April 11th,

19 three months before everybody else?

20 Q.Correct.

21 A.Because I tried to, what, hit

22 Deslimer when I told him I was going to

23 fight him in court? Yes.

24 Q.And I'll mark this as Exhibit 25

25 and ask you to take a look at it.

1 (de Leon Exhibit Number

2 25 marked for

3 identification.)

4 BY ATTORNEY HEATH:

5 Q.And the last two exhibits I'll

6 show you, we'll mark as 26 and 27.

7 (de Leon Exhibits 26 and

8 27 marked for

9 identification.)

10 WITNESS REVIEWS DOCUMENTS

11 A.You see, they did not comply.

12 They're supposed to, if they were going

13 to fire me, five days after this

14 observation. They gave me the

15 observation ten days later just to

16 criticize me and to fire me. They did

17 not even comply within five days, which

18 is what I tried to tell ---.

19 BY ATTORNEY HEATH:

20 Q.Which observation are you

21 talking about?

22 ATTORNEY NICHOLS:

23 Exhibit 26.

24 A.Exhibit 27, which I tried to

25 tell Mr. Johnson that they did not

1 comply. They gave me that after ten

2 days, but they said, oh, no, we did.

3 No, no, they did not. They did not.

4 They did not comply with those five

5 days. It was ten days later. But the

6 arbitrator already looked at this.

7 Q.And since we're speaking of what

8 the arbitrator upheld, didn't he uphold

9 your termination?

10 A.Probably because they pay him.

11 I'm sure they did. If he would have

12 read all the information and seen all

13 the true harassment I went through, all

14 the suffering and all the heartache, my

15 gosh. Anyway, he was paid for that.

16 I'm sure.

17 Q.But you want to rely on some of

18 what he said, but not all of what he

19 said?

20 A.Of course. Wouldn't you?

21 Q.Just so the record is clear,

22 Exhibit 26 is policy 412, which is the

23 evaluation of professional employees.

24 A.Which they did not follow.

25 Q.And the school code is ---.

1 A.Only when it is convenient to

2 them. The same. They do the same

3 thing, but worse. They got rid of me.

4 Now they're happy. That's why we are

5 here.

6 Q.And relative to the last

7 arbitration, wasn't this information

8 that was before Arbitrator Amis, policy

9 412?

10 A.I don't think he read it. I

11 don't think he read it.

12 Q.And also, Exhibit 27 is the

13 professional evaluation instrument,

14 which includes the philosophy and

15 rationale of the Crawford Central

16 evaluation.

17 A.Which they did not follow.

18 Q.Does it say in the first

19 paragraph here that the primary

20 objective must certainly be to foster

21 dedication and positive attitudes in

22 order to improve instruction?

23 A.Well, shouldn't that be from the

24 supervisors, as well?

25 Q.Doesn't that say that in the



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<p>1 First paragraph?</p> <p>2 A Do as your --- what is that? Do</p> <p>3 as I do?</p> <p>4 ATTORNEY NICHOLS:</p> <p>5 Which exhibit are you</p> <p>6 referring to?</p> <p>7 ATTORNEY HEATH:</p> <p>8 Twenty-seven (27), the</p> <p>9 professional evaluation</p> <p>10 instrument.</p> <p>11 A This should be examples of</p> <p>12 professionalism.</p> <p>13 ATTORNEY NICHOLS:</p> <p>14 Do we have 27? Oh, you</p> <p>15 have it?</p> <p>16 A It is here. It is good for</p> <p>17 their convenience, but not to apply on</p> <p>18 me. Because remember, they wanted to</p> <p>19 fire me by the book.</p> <p>20 BY ATTORNEY HEATH:</p> <p>21 Q And that was ultimately upheld</p> <p>22 by the arbitrator, correct?</p> <p>23 A After my lawsuit was admitted in</p> <p>24 court, then he remembered, oh, by the</p> <p>25 way --- what is the word that he used?</p>	<p>1 I'm Hispanic or not. I don't really</p> <p>2 know what the circumstances were. But</p> <p>3 that happened in one incident. I'm</p> <p>4 talking about here, years and years and</p> <p>5 years of harassment, of retaliation, of</p> <p>6 discrimination, different treatment,</p> <p>7 double standards. Look at the</p> <p>8 records ---</p> <p>9 Q And everybody's involved,</p> <p>10 including the union representatives and</p> <p>11 the administrators and the arbitrators?</p> <p>12 A Well, they have their job.</p> <p>13 They're getting a paycheck.</p> <p>14 Q You didn't take any issue with</p> <p>15 the prior arbitrators' Decisions,</p> <p>16 however, ---</p> <p>17 A Of course not.</p> <p>18 Q --- that were favorable to you.</p> <p>19 A Of course. Because they were</p> <p>20 fair and they were not paid.</p> <p>21 Q And they were not in the</p> <p>22 conspiracy?</p> <p>23 A They were honest. They had</p> <p>24 integrity. They were professional.</p> <p>25 They were ethical. So we'll see what</p>
Page 211	Page 21:
<p>1 I can't remember the word. But he</p> <p>2 remembered after. He couldn't rule</p> <p>3 that before, but he said he was willing</p> <p>4 to wait for my appeal. And when the</p> <p>5 appeal went through, and it was denied</p> <p>6 for them, and then my lawsuit was</p> <p>7 accepted by law, then he remembered</p> <p>8 that, oh, by the way, wasn't she rude?</p> <p>9 Didn't she try to beat Deshaer? Poor</p> <p>10 man. Oh, yeah. That poor little</p> <p>11 thing.</p> <p>12 Q So everybody's in the</p> <p>13 conspiracy, the state police, the</p> <p>14 arbitrators, the administrators, ---?</p> <p>15 A Not the state police. What does</p> <p>16 the state police have to do with it?</p> <p>17 Q Well, you said that they thought</p> <p>18 you were Hispanic and that's why they</p> <p>19 pulled you over for a DUI.</p> <p>20 A I don't really know what they</p> <p>21 did. To tell you the truth, I think it</p> <p>22 was to try their tires. I think that</p> <p>23 they just got them, they were brand</p> <p>24 new. I don't really know because I</p> <p>25 don't even think that you could see if</p>	<p>1 happens with that man.</p> <p>2 ATTORNEY HEATH:</p> <p>3 I'm going to reserve the</p> <p>4 right to recall her. And I</p> <p>5 indicated I was going to be</p> <p>6 filing a motion on Thursday, but</p> <p>7 given the fact that the</p> <p>8 transcript won't be finished by</p> <p>9 then, I will be filing a motion</p> <p>10 that will be three-fold. The</p> <p>11 first will involve the tax</p> <p>12 issue.</p> <p>13 The second will involve</p> <p>14 the way in which these</p> <p>15 proceedings are being handled.</p> <p>16 And the fact that I believe that</p> <p>17 the Plaintiff is in violation of</p> <p>18 the directive of the Court</p> <p>19 relative to fair discovery</p> <p>20 proceedings, and also with the</p> <p>21 Federal Rules of Civil</p> <p>22 Procedure.</p> <p>23 And third, I'm going to</p> <p>24 encompass a motion to dismiss</p> <p>25 under Rule 41(b) that in fact,</p>

1 there is a flagrant disregard to  
2 the Court's order and request  
3 that either the case be  
4 dismissed or the Plaintiff be  
5 directed to comply properly, as  
6 she should, in accordance with  
7 the law. Now you have the  
8 opportunity to question your  
9 client.

10 ATTORNEY NICHOLS:

11 Okay. I'm Caleb Nichols.

12 I'm representing Ms. de Leon in  
13 this proceeding, the Plaintiff  
14 in this proceeding. And first  
15 of all, there is an item I'm  
16 going to put in --- it's to the  
17 School District. It's a claim  
18 for unpaid wages. And this  
19 arose out of the Opinion award  
20 rendered by Arbitrator Arnis.  
21 Arbitrator Arnis, on the  
22 particular charge, leveled and  
23 lodged against my client by Mr.  
24 Dolecki that she committed  
25 immorality by submitting student

1 records to Mr. Flipping and  
2 other members of the PHRC. He  
3 specifically ruled that the  
4 School District did not prove  
5 that particular claim.  
6 Therefore, he set it aside and  
7 validated it and cordially made  
8 adjustments with respect to the  
9 number of days of suspension.  
10 She had been suspended  
11 for five days. He reduced that  
12 to three days. And accordingly,  
13 he also ruled that she should be  
14 made whole for those two days.  
15 We filed a written claim. I  
16 would ask --- now, how should we  
17 mark this?  
18 ATTORNEY HEATH:  
19 Just for the record,  
20 again, not to mix apples and  
21 oranges here, I understand what  
22 you're saying. But this really  
23 is not part and parcel to the  
24 federal suit. What this is, is  
25 a separate issue.

1 ATTORNEY NICHOLS:  
2 It's a claim for wages.  
3 ATTORNEY HEATH:  
4 Now that this appeal of  
5 the termination relative to the  
6 arbitration Decision has been  
7 put into litigation, and I  
8 believe you had tried to have  
9 standing to appeal the matter,  
10 and it was ruled that you didn't  
11 have standing to appeal the  
12 matter. But this is something  
13 that, again --- and I will  
14 certainly be happy to take it to  
15 Mr. Beard, but this is a  
16 separate issue and is not  
17 involved with the federal issue.  
18 But I will ---  
19 ATTORNEY NICHOLS:  
20 It's a state claim issue.  
21 ATTORNEY HEATH:  
22 --- certainly bring it to  
23 his attention.  
24 ATTORNEY NICHOLS:  
25 Right. Okay.

1 ATTORNEY HEATH:  
2 But I don't necessarily  
3 think it should be part of this  
4 record.  
5 ATTORNEY NICHOLS:  
6 Well, since it grows out  
7 of the issues that have been  
8 discussed here today, and I  
9 don't think you refute that,  
10 that issue as put forward today,  
11 and since it, as a matter of  
12 fact, has been discussed today,  
13 I think it would be proper to  
14 mark it. Since it is a state  
15 law based claim, I would ask  
16 that if Counsel, as you say, you  
17 would take it to Mr. Beard  
18 because he was more intimately  
19 involved in this than you  
20 were ---  
21 ATTORNEY HEATH:  
22 Well, what I'm saying is  
23 I don't necessarily want the  
24 Court --- but I need to have  
25 that ---

1 ATTORNEY NICHOLS:  
 2 Yes.  
 3 ATTORNEY HEATH:  
 4 --- as opposed to having  
 5 her mark it as an exhibit and  
 6 take it and put it with the ---  
 7 ATTORNEY NICHOLS:  
 8 Well, I would just simply  
 9 ask that it be marked since it  
 10 grows out of the factual issues  
 11 that have already been on the  
 12 record and been discussed here.  
 13 ATTORNEY HEATH:  
 14 That his Decision by  
 15 marked?  
 16 ATTORNEY NICHOLS:  
 17 It's very copious here  
 18 today.  
 19 ATTORNEY HEATH:  
 20 That his Decision be  
 21 marked?  
 22 ATTORNEY NICHOLS:  
 23 What it is, it's on  
 24 behalf of my client, my written  
 25 statement for a claim of unpaid

1 A They were written.  
 2 Q All of them were written?  
 3 A I have them.  
 4 Q Okay.  
 5 A Do you want a copy of that?  
 6 Q No, no. I just wanted --- you  
 7 answered my question.  
 8 A After he denied me union  
 9 representation, he came up with this  
 10 story and a piece of paper. April 1st.  
 11 Q Okay. And on all occasions,  
 12 they were reduced to writing, the  
 13 tardies?  
 14 ATTORNEY HEATH:  
 15 Can you give the year?  
 16 You're saying April 1st.  
 17 A 1996, 1995. I want to say '95  
 18 or '96.  
 19 BY ATTORNEY NICHOLS:  
 20 Q Could it have been '97 as well?  
 21 A No. The one that Higgins gave  
 22 me, that was in 2002.  
 23 Q Okay. All right.  
 24 A The one that Higgins gave me.  
 25 But Deshner, it was after he denied me

1 wages, and then together with  
 2 that, referencing a copy of  
 3 Arbitrator Amis' Decision, the  
 4 pages where he made such a  
 5 ruling. That's all.  
 6 ATTORNEY HEATH:  
 7 Okay. May we just get a  
 8 quick copy of it so that I can  
 9 have it, and she can mark it?  
 10 SHORT BREAK TAKEN  
 11 (Plaintiff's Exhibit  
 12 Number One marked for  
 13 identification.)  
 14 EXAMINATION  
 15 BY ATTORNEY NICHOLS:  
 16 Q I do have a few more questions.  
 17 Ms. de Leon, during the course of  
 18 questions posed by Ms. Heath, there was  
 19 a discussion regarding tardies which  
 20 had been assessed to you by Mr.  
 21 Deshner. And I'm not clear from the  
 22 record that these various tardies ---  
 23 there are more than one, right? The  
 24 tardies that were issued to you by Mr.  
 25 Deshner, were they written or verbal?

1 union representation. He gave me a  
 2 whole list. Perhaps '95, '96. I don't  
 3 want to be inaccurate.  
 4 Q Okay. Also during the course of  
 5 the deposition today, Ms. Heath has  
 6 called your competence into question by  
 7 way of giving you a spelling test. For  
 8 the record, since your competence has  
 9 been called in question, one, when were  
 10 you first employed with the School  
 11 District?  
 12 A I was employed in several school  
 13 districts as a substitute and I worked  
 14 for an intermediate unit for one year  
 15 and a half.  
 16 Q Okay. And that was prior to  
 17 --- what years are we talking about?  
 18 A I graduated in 1986, at Edinboro  
 19 University. And in 1987 ---  
 20 Q What was your degree in?  
 21 A It was a Bachelor of Science  
 22 with an emphasis in Spanish to teach, a  
 23 certification to teach Spanish 1  
 24 through 12, K through 12.  
 25 Q And then subsequently,

1 immediately subsequent to your  
2 completion of Edinboro University, you  
3 started teaching?

4 A. I placed several applications in  
5 several school districts to be a  
6 substitute. In an intermediate unit, I  
7 had ESL, English as a second language.  
8 Q. All right. How long did you

9 teach English as a second language?  
10 A. One year and a half. Eighteen  
11 (18) months. Well, at the same time, I  
12 was substituting a few days whenever  
13 they called me.

14 Q. In the end, you were employed  
15 with the district ----?

16 A. Not yet. Not yet. I also

17 taught one semester at Mercyhurst Prep,  
18 and I taught one semester ---.

19 Q. What did you teach there?

20 A. Spanish.

21 Q. Okay.

22 A. And I taught one semester in

23 Saegertown High School while the

24 teachers were on sabbatical.

25 Q. Also Spanish?

1 Q. As a Spanish teacher?  
2 A. Uh-huh (yes). Correct.

3 Q. And that was at Crawford Central  
4 School District?

5 A. Crawford Central School  
6 District.

7 Q. And just briefly, in terms of  
8 your professional degrees, state them  
9 for the record.

10 A. Well, I have a minor in music  
11 because that's what I did in Mexico  
12 City. I was a music teacher for  
13 Jamahal (phonetic), Mexico, and the  
14 music education of the Palace of Fine  
15 Arts. That was supposed to be my  
16 major, music teacher. When I came  
17 here, I decided just to get my minor.  
18 I didn't want to go into music because  
19 I knew that it was going to be very  
20 difficult for me to find a job. And I  
21 thought, maybe if I go into Spanish,  
22 then I won't be fighting for my job.  
23 And since I'm a native of the  
24 country, I have a lot more to offer to  
25 my students in addition to my cultural

1 A. Spanish. And then I worked for  
2 Erie School District, only for three  
3 weeks because they killed their Spanish  
4 teacher. They actually killed him. I  
5 found his diary. They found him dead  
6 in his house.

7 And then since I had already  
8 signed a contract to substitute for a  
9 teacher in Saegertown High School,  
10 that's why I couldn't stay in this one.

11 Then I went to Saegertown High School.

12 Then I heard that there was a position

13 in Cochran High School. That was in

14 1989, for September 1989. So in the

15 summer, I came and applied. And then

16 Mr. Lescola ---.

17 Q. You were there full time?

18 A. It wasn't full time.

19 Q. Starting in 1989?

20 A. Substituting on a permanent

21 basis.

22 Q. Okay.

23 A. In 1989.

24 Q. In 1993, you were tenured?

25 A. I was tenured. Correct.

1 background. So I decided to go for

2 Spanish and minor in music. Then when

3 I want back to Mercyhurst --- actually,

4 before that, I continued taking

5 courses. I had 40 courses, which

6 qualified me to get a Master's

7 equivalency from the State in

8 Harrisburg because I took that many

9 courses in different universities.

10 And then finally, when they told

11 me that there was an assistance that

12 was offered only to people --- there

13 were six of us. They were paying me to

14 go to Mercyhurst and they would give me

15 stipend. And that was in 1999 before I

16 came back to work. So they paid for my

17 courses and they were giving me

18 stipend, and then I began the Master's,

19 Bilingual, Bicultural and Special

20 Education.

21 Q. Okay. So you've got the

22 B.A./B.S. Bachelor's degree from

23 Edinboro in what year?

24 A. 1986.

25 Q. And then you got a Master's

1 degree from Mercyhurst in what year?  
 2 AIt was 2004. It should have  
 3 been 2003.  
 4 QOkay. And based upon your  
 5 academic work at Mercyhurst, you also  
 6 acquired a Master's equivalency by the  
 7 State; is that correct?  
 8 AThat was before that. That was  
 9 before that. I got the Master's  
 10 equivalency in 1999.  
 11 QOkay. Have you continued to  
 12 pursue continuing education?  
 13 ANot right now.  
 14 QI mean, since you commenced your  
 15 career with the school district in  
 16 1989.  
 17 AOh, yes, of course. I  
 18 continued. Oh, yeah. Throughout the  
 19 whole ---  
 20 QYou continued?  
 21 AYeah. Taking courses all the  
 22 time.  
 23 QOkay. Just one other question  
 24 that I have to ask you. Ms. Heath  
 25 alluded to your DUI charge. What's the

1 position of that?  
 2 AIt's expunged.  
 3 QIt was expunged.  
 4 AUh-huh (yes).  
 5 QAnd why did the authorities  
 6 expunge it?  
 7 AWell, because that incident,  
 8 after seven years, you can expunge all  
 9 the records, especially if you don't  
 10 have any alcohol problems or you don't  
 11 break the rules again. So that's why.  
 12 ATTORNEY NICHOLS:  
 13 Okay. All right. Thank  
 14 you.  
 15 EXAMINATION  
 16 BY ATTORNEY HEATH:  
 17 QI just have one quick follow-up.  
 18 You had indicated that you had gotten  
 19 part of your education paid for in a  
 20 stipend?  
 21 AUh-huh (yes).  
 22 QWho paid for that?  
 23 AMercyhurst College did.  
 24 QThrough a grant or a  
 25 scholarship?

1 AIt was a grant. From what I  
 2 understand, Mr. --- I'm having so much  
 3 trouble remembering names. But he was  
 4 my counselor, and he's the chairman of  
 5 the department of education in  
 6 Mercyhurst College.  
 7 QWere those grants given to  
 8 minorities?  
 9 AThere was a grant that he got,  
 10 and there were only six of us. No,  
 11 they were not just minorities. There  
 12 was another girl from Ecuador and  
 13 myself. The other four were American.  
 14 There were six of us.  
 15 QAnd what was it based on to  
 16 qualify? Is it academics?  
 17 AYou needed to have ---  
 18 QEconomic need?  
 19 ANo. It was not economic. It  
 20 was according to your QPA, whatever you  
 21 needed, to have a Bachelor's of Science  
 22 already, and have a Bachelor's in a  
 23 foreign language, because it was  
 24 Bilingual/Bicultural, whether you were  
 25 in French, whether you were in German.

1 But you had to be certified in a  
 2 foreign language in order to be --- and  
 3 of course, you would have to take a  
 4 test. It was the Miller's Test I would  
 5 have to take in order to be accepted  
 6 into the program. And a minimum of, I  
 7 believe it was 3.0 on your --- I had  
 8 three point something. So whatever, I  
 9 filled the requirement in order to be  
 10 accepted. But then the grant ran out,  
 11 and when I went back, then I had to  
 12 pay.  
 13 QAnd how did you pay?  
 14 AI borrowed the money. I still  
 15 owe them to PHEAA, to one of these  
 16 loans at Stafford. I have the  
 17 paperwork. I'm paying just the  
 18 interest right now.  
 19 ATTORNEY HEATH:  
 20 Thank you.  
 21 ATTORNEY NICHOLS:  
 22 Okay. That's all.  
 23 \*\*\*\*\*  
 24 EXAMINATION CONCLUDED AT 2:31 P.M.  
 25 \*\*\*\*\*





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1 COMMONWEALTH OF PENNSYLVANIA )  
2 COUNTY OF ERIE )  
3

4 C E R T I F I C A T E  
5

6 I, Shannon C. Fortsch, a Notary Public in and  
7 for the Commonwealth of Pennsylvania, do hereby  
8 certify:  
9

10 That the witness whose testimony appears in  
11 the foregoing deposition, was duly sworn by me on  
12 said date and that the transcribed deposition of  
13 said witness is a true record of the testimony  
14 given by said witness;

15 That the proceeding is herein recorded fully  
16 and accurately;

17 That I am neither attorney nor counsel for,  
18 nor related to any of the parties to the action in  
19 which these depositions were taken, and further  
20 that I am not a relative of any attorney or  
21 counsel employed by the parties hereto, or  
22 financially interested in this action.  
23  
24  
25

Shannon C. Fortsch, Reporter



NOTARIAL SEAL  
SHANNON C. FORTSCH  
Notary Public  
CRANESVILLE BOROUGH, ERIE COUNTY  
My Commission Expires Feb 9, 2010